

FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT

RECEIVED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JUN 23 2010

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

COMPLAINT

McDonald Williams
(Enter above the full name of the plaintiff in this action)

v.

Civil Action No. 10-3205 (JLL)
(To be supplied by the Clerk of the Court)

John McMahon
FREDERICK EITZEL

(Enter above the full name of the defendant or defendants
in this action)

INSTRUCTIONS -- READ CAREFULLY

1. This complaint must be legibly handwritten or typewritten, signed by the plaintiff and subscribed to under penalty of perjury as being true and correct. All questions must be answered concisely in the proper space on the form. Where more space is needed to answer any question, attach a separate sheet.
2. In accordance with Rule 8 of the Federal Rules of Civil Procedure, the complaint should contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, (2) a short plain statement of the claim showing that you are entitled to relief, and (3) a demand for judgment for the relief which you seek.
3. You must provide the full name of each defendant or defendants and where they can be found.
4. You must send the original and one copy of the complaint to the Clerk of the District Court. You must also send one additional copy of the complaint for each defendant to the Clerk. Do not send the complaint directly to the defendants.
5. Upon receipt of a fee of \$350.00, your complaint will be filed. You will be responsible for service of a separate summons and copy of the complaint on each defendant. See Rule 4, Federal Rule of Civil Procedure.

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N/A

so that the Marshal can locate and serve each defendant. If the forms are sent to you, you must complete them in full and return the forms to the Marshal.

QUESTIONS TO BE ANSWERED

1. Jurisdiction is asserted pursuant to (CHECK ONE)

✓

42 U.S.C. § 1983 (applies to state prisoners)

_____ Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics,
403 U.S. 388 (1971) and 28 U.S.C. § 1331 (applies to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

2. Previously Dismissed Federal Civil Actions or Appeals

If you are proceeding in forma pauperis, list each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility, that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted. Please note that a prisoner who has on three or more prior occasions, while detained in any facility, brought an action or appeal in a federal court that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted, will be denied in forma pauperis status unless that prisoner is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

- a. Parties to previous lawsuit:

nothing previously

Plaintiff(s): N/A

N/A

Defendant(s): N/A

N/A

- b. Court and docket number: N/A

- c. Grounds for dismissal: () frivolous () malicious () failure to state a claim upon which relief may be granted

- d. Approximate date of filing lawsuit: _____

See Exhibit - B

225 F.3d 657, Williams v. Hawley, (C.A.4 (N.C.) 2000)

Page 1

*657 225 F.3d 657

NOTICE: THIS IS AN UNPUBLISHED
OPINION.

(The Court's decision is referenced in a "Table of
Decisions Without Reported Opinions" appearing in
the Federal Reporter. See CTA4 Rule 32.1.

United States Court of Appeals, Fourth
Circuit.

McDonald WILLIAMS, Plaintiff-Appellant,
v.
Charles HAWLEY; Thomas Breedlove,
Defendants-Appellees,
and

T.L. Jacobs, Defendant.

No. 00-6636.
Submitted July 13, 2000. ✓

Decided July 25, 2000. ✓

Appeal from the United States District Court for
the Eastern District of North Carolina, at Raleigh.
James C. Fox, District Judge. (CA-97-736-5F).

McDonald Williams, pro se.

James Carol Worthington, Poe, Hoof & Reinhardt,
Durham, NC, for appellees.

Before WIDENER, LUTTIG, and TRAXLER,
Circuit Judges.

PER CURIAM

McDonald Williams appeals the district court's

order granting in part and denying in part relief on
his 42 U.S.C.A. § 1983 (West Supp. 2000)
complaint. He raised claims regarding the
confiscation of tennis shoes and money orders
during a search. The district court denied relief on
Williams' claim regarding his tennis shoes. Our
review of the record reveals that the district court's
order was correct as to this claim. Accordingly, we
affirm on this claim on the reasoning of the district
court. See *Williams v. Hawley*, No. CA-97-736-SF
(E.D.N.C. May 11, 1998; May 30, 2000).

Williams' claim regarding his money orders was
referred to a magistrate judge pursuant to 28 U.S.C.
§ 636(b)(1)(B) (1994). The magistrate judge
recommended that partial relief be granted and
advised Williams that failure to file timely
objections to this recommendation could waive
appellate review of a district court order based upon
the recommendation. Despite this warning,
Williams failed to object to the magistrate judge's
recommendation.

The timely filing of objections to a magistrate's
recommendation is necessary to preserve appellate
review of the substance of that recommendation
when the parties have been warned that failure to
object will waive appellate review. See *Wright v.
Collins*, 766 F.2d 841, 845-46 (4th Cir.1985); see
also *Thomas v. Arn*, 474 U.S. 140 (1985).
Williams has waived appellate review as to this
money order claim by failing to file objections after
receiving proper notice. Accordingly, we affirm
the judgment of the district court as to this claim.
We dispense with oral argument because the facts
and legal contentions are adequately presented in the
materials before the court and argument would not
aid the decisional process.

AFFIRMED.

Exhibit-B

*Cases that would pay by me
the Plaintiff and not proceed
in forma pauperis Alleging
credibility*

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c. Second defendant – name: MR: FREDERICK E Ifierm

Official position: PROSECUTOR-DISTRICT- ATTORNEY

Place of employment: ESSEX-COUNTY - PROSECUTOR OFFICE- COURT

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

HE IS THE PROSECUTOR IN THIS MATTER THIS CASE
HAPPEN BACK IN 2006 AND THE PROSECUTOR HAS USE
AGAINST ME? PROSECUTORIAL MISCONDUCT SEE ATTACH
HERETO

d. If there are more than two defendants, attach a separate sheet. For each defendant specify: (1) name, (2) official position, (3) place of employment, and (4) involvement of the defendant.

5. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in the Statement of Claims on page 6.

☒ Yes ☐ No

If your answer is "Yes," briefly describe the steps taken, including how relief was sought, from whom you sought relief, and the results.

SEE ATTACH HERETO - I FILE A SPEEDY TRIAL
MOTION SUPERIOR COURT OF NEW JERSEY BUT
IT WAS TO NO AVAIL AND THIS HAS BEEN ON GOING
IN THIS MATTER SEE EXHIBIT - A -

If your answer is "No," briefly explain why administrative remedies were not exhausted.

SEE EXHIBIT - A -

Allegations-as-follows

Alleging the fact, that ineffective assistance of Counsel HAS been a factor in this matter, Indictment # 2007-8-3025

- 1) Attorney John McMahon HAS failed to file any kind of motion in my behalf to have this case brought to trial? due to that fact
- 2) Attorney John McMahon HAS abandon me and HAS joined the Prosecutor by never objecting to the fact that the Prosecutor in this matter case # 2007-8-3025 HAS delayed me by not arranging a court date. Due to the fact that the Prosecutor HAS been trying to used the other 2 co-defendants as bargaining tools against me while making me sit and awaiting a trial and rendering me CRUEL and UNUSUAL PUNISHMENT since October of 2006
- 3) I HAVE been in pretrial detention HERE at this location THE ESSEX COUNTY Jail Correctional facility on a allege accused Indictment # 2007-8-3025 To-wit Prosecutorial mis conduct, HAS been render by the Prosecutor in this matter FREDERICK E. FIERN by not honorably considering that if you HAVE y giving statement from 2 other co-defendants why HAVEEN a court date been set for a trial in the case # 2007-8-3025 To-wit b./ not Arranging me a court date violate my 6th Amendment Rights

4) However Alleging my Attorney Mr John McMathen, I HAVE REPEATEDLY REQUESTED TO HIM TO MOVE THE COURT TO COMPEL THE PROSECUTOR TO bring ME TO TRIAL OR TO FILE A MOTION TO HAVE THIS CASE DISMISSED DUE TO UNREASONABLE PRETRIAL delay HOWEVER THESE VERY REASONABLE REQUEST HAVE NOT BEEN HONORED AND NO EXPLANATION HAS NOT BEEN PROVIDED FROM MY ATTORNEY, OR THE PROSECUTOR, but ignored

5) in this case by in December, 29, 2008, I file A Speedy Trial A MOTION CASE # 7-8-3020 # 823632-2006 # 2006026877-0714 # 2006823633-0714 ET,AL DATE: JANUARY 7, 2009 Re Williams McCloud P: 06009383-002 and was giving A CONTROL DATE Feb-6 2009 by the Honorable Judge Joseph Cassini, U.S.C. but to NO AVAIL was this MOTION HONORED: SEE Exhibit-A- ATTACHED HERETO:

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7. Relief

(State briefly exactly what you want the Court to do for you. Make no legal arguments. Cite no cases or statutes.)

*it would highly ^{be} appreciated if this Honorable Court
will remove all the illegality that surround this
matter and Grant me my liberty UNDER the
Constitution of the UNITED STATES
Thank you*

8. Do you request a jury or non-jury trial? (Check only one)

☒ Jury Trial

☐ Non-Jury Trial

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 16 day of June ~~200~~ 2010

RECEIVED

JUN 23 2010

WILLIAM T. WALSH, CLERK

McDonald Williams
Signature of plaintiff¹

JIMMY DYKES
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 23, 2012

J. Dykes
6/16/10 *JD*

¹ EACH PLAINTIFF NAMED IN THE COMPLAINT MUST SIGN THE COMPLAINT HERE. ADD ADDITIONAL LINES IF THERE IS MORE THAN ONE PLAINTIFF. REMEMBER, EACH PLAINTIFF MUST SIGN THE COMPLAINT.